

The issue is whether appellant met her burden of proof that she sustained total disability between June 6 and July 6, 2007 due to her accepted employment injury.

FACTUAL HISTORY

In June 2007, the Office accepted that appellant, then a 45-year-old mail clerk, sustained a lesion of her right ulnar nerve due to the repetitive duties of her job.¹ In early 2007, appellant was performing limited-duty work for the employing establishment on a part-time basis.²

In an April 24, 2007 report, Dr. Albert P. Thompson, an attending Board-certified family practitioner specializing in emergency medicine, indicated that appellant reported having right hand pain and numbness for three days. Dr. Thompson diagnosed ulnar nerve entrapment of appellant's right arm and stated, "This is clearly a job[-]related problem." In an April 24, 2007 form report, he stated that appellant could perform modified work from April 24 to June 24, 2007. In an April 27, 2007 letter, Dr. Thompson noted, "Because of [appellant's] medical condition she has been advised to be off work until further notice."

Appellant stopped work on June 6, 2007 and later claimed that she sustained disability between June 6 and July 6, 2007 due to her accepted employment injury.³

On June 14, 2007 Dr. Thompson stated that appellant reported that she continued to experience ulnar nerve irritation which had improved because she had been off work. Appellant further reported that "any activity of grasping or repetitive fine manipulation with the left hand is very painful." Dr. Thompson stated that palpation of appellant's right hand showed no tenderness and that she had normal range of motion, strength and sensation. He noted that diagnostic studies of appellant's arms showed normal results but that she reported pain in her ulnar distribution.⁴ Dr. Thompson stated that appellant should "[c]ontinue off work through June 29, 2007." In an accompanying form report, he indicated that she was totally disabled from April 29 to June 14, 2007 due to her employment-related ulnar nerve irritation.

On June 26, 2007 the Office requested that appellant submit additional factual and medical evidence.

Appellant submitted the findings of June 6, 2006 electromyogram (EMG) and nerve conduction testing of her right arm which showed no evidence of right ulnar neuropathy, carpal tunnel syndrome or "other right upper limb problem."⁵ On June 6, 2007 Dr. Craig D. McNabb, an attending Board-certified physical medicine and rehabilitation physician, stated that appellant reported increasing pain in her two ulnar digits in her right hand. He noted that appellant had good strength in both arms, a negative Phalen's test bilaterally and a mildly positive Tinel's test

¹ In her April 27, 2007 occupational disease claim, appellant indicated that she first became aware of her right arm condition on December 5, 2006 and first realized that it was employment related on April 20, 2007.

² Appellant's work duties included placing mail in boxes.

³ It is unclear whether appellant stopped work for any period prior to June 6, 2007.

⁴ Dr. Thompson did not indicate in which arm appellant reported pain in the ulnar nerve distribution.

⁵ The record contains several reports from 2001 which indicate that appellant had previously been diagnosed with carpal tunnel syndrome and had surgery on both hands in the mid 1990s. There is no indication in the record that appellant had employment-related carpal tunnel syndrome on either side.

at the wrist and elbow. Dr. McNabb indicated that appellant's diagnostic testing showed no significant neuropathy or carpal tunnel syndrome on the right and stated that her condition "may just be ulnar nerve irritation."

In a June 21, 2007 note, Dr. McNabb stated that appellant had right forearm tendinitis and ulnar neuritis and stated that he would "keep her out of work for the next couple of weeks and see her back in the next two week's time." In another June 21, 2007 note, he indicated that she should not work for two weeks.⁶ On June 28, 2007 Dr. Thompson provided a diagnosis of carpal tunnel syndrome and stated that appellant needed to "stay off work for another month with possible return in early August."

In an August 1, 2007 decision, the Office denied appellant's claim on the grounds that she did not submit sufficient medical evidence to establish that she sustained total disability between June 6 and July 6, 2007 due to her accepted employment injury.⁷

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act⁸ has the burden of establishing the essential elements of his or her claim including the fact that the individual is an "employee of the United States" within the meaning of the Act, that the claim was timely filed within the applicable time limitation period of the Act, that an injury was sustained in the performance of duty as alleged and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury.⁹ The medical evidence required to establish a causal relationship between a claimed period of disability and an employment injury is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the compensable employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.¹⁰

ANALYSIS

The Office accepted that appellant sustained a right hand lesion of the ulnar nerve due to the repetitive duties of her job. She had been performing limited-duty work on a part-time basis

⁶ On July 9, 1994 Dr. McNabb indicated that appellant could return to limited-duty work for four hours per day with no lifting more than 10 pounds.

⁷ Appellant submitted additional evidence after the Office's August 1, 2007 decision, but the Board cannot consider such evidence for the first time on appeal. See 20 C.F.R. § 501.2(c).

⁸ 5 U.S.C. §§ 8101-8193.

⁹ *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

¹⁰ See *Donna Faye Cardwell*, 41 ECAB 730, 741-42 (1990).

when she filed her claim. Appellant stopped work on June 6, 2007 and later claimed that she sustained disability between June 6 and July 6, 2007 due to her accepted employment injury.¹¹ The Board finds that appellant did not submit sufficient medical evidence to establish that she sustained disability between June 6 and July 6, 2007 due to her accepted employment injury.

Appellant submitted several reports in which Dr. Thompson, an attending Board-certified family practitioner specializing in emergency medicine, indicated that she should stop work for various periods between June 6 and July 6, 2007. In a June 14, 2007 report, Dr. Thompson stated that appellant reported that she continued to experience ulnar nerve irritation and noted that she should “[c]ontinue off work through June 29, 2007.” In an accompanying form report, he indicated that she was totally disabled from April 29 to June 14, 2007 due to her employment-related ulnar nerve irritation.

These reports, however, are of limited probative value on the relevant issue of the present case in that they do not contain adequate medical rationale in support of their opinions on causal relationship.¹² Dr. Thompson did not describe appellant’s accepted employment injury in any detail or explain how it had worsened such that she was no longer able to perform her limited-duty work. Such medical rationale is especially necessary in the present case as Dr. Thompson stated that appellant had limited findings on examination¹³ and indicated that she reported her main symptoms were in her left hand.¹⁴ The Office has only accepted that appellant has a right-sided employment injury, a lesion of the right ulnar nerve.¹⁵

On June 28, 2007 Dr. Thompson provided a diagnosis of carpal tunnel syndrome and stated that appellant needed to “stay off work for another month with possible return in early August.” However, the Office has not accepted that appellant has employment-related carpal tunnel syndrome on either side and the medical evidence does not support the existence of such a

¹¹ Appellant returned to limited-duty work in early July 2007.

¹² See *George Randolph Taylor*, 6 ECAB 986, 988 (1954) (finding that a medical opinion not fortified by medical rationale is of little probative value).

¹³ Dr. Thompson mentioned appellant’s normal EMG and nerve conduction testing, stated that palpation of her right hand showed no tenderness and indicated that she had normal range of motion, strength and sensation. Dr. Thompson noted that appellant reported pain in the ulnar nerve distribution but did not specify which arm exhibited this pain.

¹⁴ Appellant reported that “any activity of grasping or repetitive fine manipulation with the left hand is very painful.”

¹⁵ In April 2007 reports, Dr. Thompson indicated that appellant had employment-related ulnar nerve entrapment of her right arm. Given that these reports were produced prior to appellant’s claimed period of disability, they would not show that she was totally disabled between June 6 and July 6, 2007 due to her employment injury. Moreover, Dr. Thompson provided conflicting opinions on appellant’s level of disability. In an April 24, 2007 form report, he stated that appellant could perform modified work from April 24 to June 24, 2007. However, in an April 27, 2007 letter, Dr. Thompson stated, “Because of [appellant’s] medical condition she has been advised to be off work until further notice.”

condition. Dr. Thompson did not indicate that this period of disability was due to appellant's accepted employment injury.

In a June 21, 2007 note, Dr. McNabb, an attending Board-certified physical medicine and rehabilitation physician, stated that appellant had right forearm tendinitis and ulnar neuritis and noted that he would "keep her out of work for the next couple of weeks and see her back in the next two week's time." In another June 21, 2007 note, he indicated that appellant should not work for two weeks. However, Dr. McNabb did not provide a clear opinion in either report about what condition he felt necessitated this period of disability. It should be noted that the Office has not accepted that appellant sustained employment-related right forearm tendinitis. Although he diagnosed "ulnar neuritis," Dr. McNabb did not explain how appellant's employment injury worsened such that she was no longer able to perform her limited-duty work. His opinion on disability seems to be related more to appellant's reported symptoms than to objective findings on examination or diagnostic testing.¹⁶

CONCLUSION

The Board finds that appellant did not meet her burden of proof that she sustained total disability between June 6 and July 6, 2007 due to her accepted employment injury.

¹⁶ Dr. McNabb also mentioned the normal EMG and nerve conduction studies and reported limited findings on examination.

ORDER

IT IS HEREBY ORDERED THAT the Office of Workers' Compensation Programs' August 1, 2007 decision is affirmed.

Issued: March 6, 2008
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

David S. Gerson, Judge
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board